

REMARKS/ARGUMENTS

The Examiner is thanked for the Final Office Action dated August 8, 2006. The status of the application is as follows:

- Claims 1-4, 8-11, 15-18, and 22 stand rejected under 35 U.S.C. 102(b) as being anticipated by Harrison (US 5,878,222).
- Claims 5, 12, and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Liebenow (US 6,601,074).
- Claims 6, 7, 13, 14, 20, and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Zigmond et al. (US 6,400,407).
- The specification stands objected to for failing to provide proper antecedent basis for claim 22.

The rejections to the claims are discussed below.

The Anticipation Rejection

Claims 1-4, 8-11, 15-18, and 22 stand rejected under 35 U.S.C. 102(b) as being anticipated by Harrison (US 5,878,222). This rejection should be withdrawn because Harrison does not teach each and every element as set forth in the subject claims. MPEP §2131 ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)).

Independent **claim 1** (and similarly independent **claims 8, 15 and 22**) recites, *inter alia*, a shell that executes scripts that control demodulation of broadcast programming. Harrison does not teach or suggest such claimed aspects. In contrast, Harrison teaches a computer system 100 having a signal processing and selection unit (SPSU) 104 that monitors and selects audio/video signals received by the computer system 100. (See column 3, lines 4-5 and 10-13).

More particularly, the SPSU 104 includes a plurality of analyzing units 250, which determine whether the monitored video signals include predefined items of interest to the user. (See column 3, lines 51-56, and column 4, lines 40-42). A profile unit 260

stores a prioritized list of predefined channels and channel data that specify items of interest. (See column 3, line 64 to column 4, line 2, and column 4, lines 43-45 and 50-54). An arbitrating unit 270 resolves display contentions when one or more predetermined items of interest are detected in one or more of the monitored video signals based on the predefined prioritization. (See column 4, lines 50-56). Selected signals 275 are provided to the display unit for display. (See column 4, lines 8-11).

The computer system 100 also includes a processor 102, a main memory 103, an input device 106, and a cursor control device 107. The processor 102 processes data and instructions stored within the memory 103, the input device 106 is an alphanumeric input device 106 for communicating information and command selections to the processor 102, and the cursor control device 107 allows the computer user to dynamically signal the two dimensional movement of a visible symbol on the display screen of the display device 105. (See column 3, lines 6-9 and 25-31).

From the above, Harrison teaches the SPSU 104 monitors and selects the audio/video signals to display based on user prioritized and predefined items of interest. The processor 102 is an independent component (relative to the SPSU 104) that processes data and instructions stored within the memory 103 and receives information and command selections from an input device 106. The cursor control device 107 is merely used to signal movement on a display.

Harrison does not teach or suggest that the SPSU 104, which monitors and selects the audio/video to display, is a shell that executes scripts that control demodulation of broadcast programming. The Office asserts that the processing of the data and instructions by the processor 102 provides "communication between a user and an operating system, thus performing the operation of a shell." (See Office Action, page 8). However, the SPSU 104 (not the processor 102) selects the audio/video signals to display, and the SPSU 104 is not a shell as recited in the subject claims. In addition, the claims include a shell, and not merely the performance of the operation of a shell.

From the above assertions in the Office Action, it appears that the Office is impermissively picking and choosing portions of Harrison that describe different and distinct components and functions in order to piece together applicant's claimed invention. However, the identical invention must be shown as recited in the claim (*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989)), and the elements must be arranged as required by the claim (*In re Bond*, 910 F.2d 831 (Fed. Cir. 1990)). MPEP §2131.

Moreover, the Office Action provides that a shell is an interactive program employed to create and run scripts - sequences of instructions or commands for controlling operation of a video receiver. (See Office Action, page 2). Harrison does not teach or suggest that the SPSU 104 is an interactive program. As well known in the art, an interactive program requires reciprocal communication between the SPSU 104 and the user. For example, the Merriam-Webster online dictionary defines interactive as reciprocally active or involving the actions or input of a user such as with an electronic communication system that involves a user's responses. (See <http://www.m-w.com/dictionary/interactive>).

Rather than being interactive, Harrison teaches that the SPSU 104 is non-interactive and uses a predefined prioritized list of items of interest to determine which channel to display. The Office references the input device 106 to teach a mechanism for such interaction. However, the input device 106 does not provide interactive communication between the SPSU 104 and the user. The input device 106 provides one-way communication of information and command selections to the processor 102.

Independent **claims 8 and 15** further recite that a video receiver includes a scripting system that includes the shell for executing program selecting scripts as set forth in claim 1. Harrison also does not teach or suggest a video receiver that includes such a scripting system.

In view of the foregoing, it is readily apparent that Harrison does not teach each and every element as set forth in the subject claims. Therefore, the rejection of claims 1, 8 and 15 should be withdrawn.

Claims 2 and 3, 9 and 10, and 16 and 17, respectively depend from claims 1, 8 and 15, and by virtue of these dependencies, are allowable for at least the reasons discussed above in connection with claims 1, 8 and 15. Therefore, the rejection of claims 2, 3, 9, 10, 16, and 17 should be withdrawn.

Claims 4, 11 and 18 further recite that the at least one script executed by the shell controls operation of the video receiver to cause the selected broadcast programming to be demodulated and transmitted to a recording device. In contrast, Harrison discloses that an arbitrating unit 270 (not an executing script) determines which channel to display/record on the display/record unit based on the prioritized predefined items of interest. (See column 4, lines 8-11 and 54-56). Accordingly, the rejection of these claims should be withdrawn.

The First Obviousness Rejection

Claims 5, 12, and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Liebenow (US 6,601,074). These claims depend from independent claims 1, 8, or 15, and by virtue of their dependency, this rejection should be withdrawn for at least the reasons discussed above in connection with claims 1, 8, and 15.

The Second Obviousness Rejection

Claims 6, 7, 13, 14, 20, and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Zigmond et al. (US 6,400,407). This rejection should be withdrawn because Harrison does not teach or suggest all the element of the subject claims. MPEP §2142 (To establish a *prima facie* case of obviousness ... the prior art references when combined must teach or suggest all the claim limitations.); *In re Royka*, 490 F.2d 981 (CCPA 1974).

Claims 6, 13 and 20 recite that the at least one script is received with a broadcast programming stream, and **claims 7, 14 and 21** recite that the at least one script is received

from an external source separate from a broadcast programming stream. The Office concedes that Harrison does not teach such aspects, but asserts that Zigmond et al. does and that it would be obvious to one of ordinary skill in the relevant art at the time of the invention to combine the teachings to render the claimed invention. However, Zigmond et al. does not make up for the conceded deficiencies of Harrison with respect to the subject claims.

In contrast, Zigmond et al. discloses receiving logical address links associated with television programs in broadcast video signal or from suppliers. Real-time logical address links are valid for a predetermined time after receipt, whereas batch mode logical address links typically also define a time interval such as a start time and an end time. (See column 6, lines 56-61). If a logical address link is valid, an indication that the logical address link is associated with a currently viewed television program is visually and/or audibly provided to the viewer (See column 9, lines 17-24). If the logical address link is not valid, then no indication is provided to the viewer. (See column 9, lines 31-32).

Thus, Zigmond et al. teaches receiving logical address links in broadcast video or from a supplier, wherein the logical address links are either associated with predetermined or define time intervals in which the links are valid. Such time intervals are not scripts that include a sequence of commands for demodulating selected broadcast programming as recited in the subject claims. Rather, they are parameters that merely indicate a time interval in which a link is to be made available to the viewer who is watching a program associated with the link.

Accordingly, the rejection of claims 6, 7, 13, 14, 20, and 21 should be withdrawn.

Moreover, claims 6 and 7, 13 and 14, and 20 and 21 respectively depend from claims 1, 8, and 15 and, thus, this rejection should be withdrawn for at least the reasons discussed above in connection with claims 1, 8, and 15.

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Claim Objections

The specification stands objected to as failing to provide proper antecedent basis for the term "datastream" in claim 22. This objection should be withdrawn because the specification has been amended herein to include the claimed subject matter. MPEP §2163.06 (The claims as filed in the original specification are part of the disclosure and therefore, if an application as originally filed contains a claim disclosing material not disclosed in the remainder of the specification, the applicant may amend the specification to include the claimed subject matter. *In re Benno*, 768 F.2d 1340, 226 (Fed. Cir. 1985)).

Conclusion

In view of the foregoing, it is submitted that the subject claims distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,

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